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COMMENTS

To: House Committee on Labor & Public Employment

From: Paul T. Tsukiyama, Director

Date: January 30, 2009, 8:30 a.m.
State Capitol, Room 309

Re: Testimony on H.B. 527
Relating to the Employees' Retirement System

Thank you for the opportunity to submit testimony on H.B. 527.

The Office of Information Practices ("OIP") takes no position on the substance of this bill, which would establish a blue ribbon Employees' Retirement System Task Force, but seeks clarification of a provision on page 2 of the bill, lines 11-16, which states that

The task force shall be exempt from chapter 92, Hawaii Revised Statutes; provided that the task force shall make a good faith effort to make its proceedings and work products accessible and available to the general public in a manner consistent with the intent of chapter 92, Hawaii Revised Statutes.

The Sunshine Law is only part I of chapter 92. Parts II through IV of chapter 92 relate to non-Sunshine Law issues, such as boards' general powers and quorum requirements, copy charges for public records, and publication of legal notices. If the intent of this provision is to exempt the Task Force from the Sunshine Law, OIP recommends that the bill state that the Task Force "shall be exempt from part I of chapter 92."

OIP would, however, recommend that this Committee carefully consider whether it is good policy to exempt the Task Force from the Sunshine Law in light of the express policy and intent of the statute.

In a democracy, the people are vested with the ultimate decision-making power. Governmental agencies exist to aid the people in the formation and conduct of public policy. Opening up the governmental processes to public scrutiny and participation is the only viable and reasonable method of protecting the public's interest. Therefore, the legislature declares that it is the policy of this State that the formation and conduct of public policy - the discussions, deliberations, decisions, and actions of government agencies - shall be conducted as openly as possible.

Haw. Rev. Stat. §92-1 (1993).

The issues on the issue on which the Task Force is charged with making recommendations are important to and will directly affect all state employees, and indirectly the public at large. Although the bill calls for the Task Force to make a good faith effort to make its proceedings accessible to the public, the way in which it chooses to do so will be entirely within the Task Force's discretion and members of the public will have no recourse if they feel shut out of the proceedings. For instance, if it is exempt from the Sunshine Law, the Task Force will not be required to post notice of its meetings or allow the public to testify at its meetings.

Thank you for the opportunity to testify.

**HB 527
RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM**

**PAUL T. OSHIRO
MANAGER – GOVERNMENT RELATIONS
ALEXANDER & BALDWIN, INC.**

JANUARY 30, 2009

Chair Rhoads and Members of the House Committee on Labor & Public

Employment:

I am Paul Oshiro, testifying on behalf of Alexander & Baldwin, Inc. (A&B) on HB 527, "A BILL FOR AN ACT RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM."

This bill establishes a Blue Ribbon Task Force to investigate the advisability of having the Employees' Retirement System enter into an agreement to purchase the Ala Moana Shopping Center and the Ward Centers. We sincerely appreciate the consideration to include the Chairperson and Chief Executive Officer of A&B as an invitee to participate as a member of this Task Force. However, in that A&B may become involved in future discussions relating to the acquisition of these properties outside of the proceedings of this Task Force, we believe that it may be best if A&B is not included as an invitee to participate on this Task Force.

Thank you for the opportunity to testify.